REMARKS

Claims 1-3, 5-10, 12-14, 16, 18, 19, 22, 24-27, 29-34, 36, 41, 42, 44-49 have been rejected under 35 U.S.C. 102(e) as being anticipated by Benetti et al. (5,894, 843). Claims 4, 11, 17, 21, 28, 35, 43 and 50 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Benetti et al.

The Office Action asserts that the "functional language" does not result in a structural difference between the claimed invention and the prior art. "If the prior art structure is capable of performing the intended use, then it meets the claim". This is precisely where Benetti fails to meet the essential features of the claim. The only method for artery compression that is described in Bennetti involves the downward force exerted by the occluder 63 in the aperture 61. This structure is not identical nor does it have "similar utility". Artery tissue is fragile by nature, if the artery is damaged by the compressive force, this can have serious consequences for the patient. The problems with both compression and upward traction (used separately) are described at page 2, lines 4-16 of the application. Benetti, in Fig. 7 for example, uses occluders 63 to compress the artery. The other references noted discuss securing the heart to the contact member with a suture line 41, for example, but again fail to disclose or suggest compressing the artery from both sides to occlude flow and stabilize the site with a lower risk to artery damage than that associated with compression only (or upward traction). For further illustration, it is not possible to use a suture line with the ports 70 to compress the artery exposed in aperture 61 (Benetti, Fig. 7) against element 62 or occluders 63 without damaging the artery. If a suture line were used as suggested in the Office Action in the device of Fig. 7 in Benetti, this would likely cause the artery to snake around the occluder 63 and the suture line, thereby increasing the risk of injury. The occluder 63 is not designed to work in conjunction with the ports 70 to compress the artery. Occluders 63 are designed to use a downward compressive force only and tend to deflect the compressed portion of the artery out of its normal position. The inventor in the present application discovered that there is a reduced risk for artery damage if force is applied to both sides of the artery. Claims 1 and 25 have been further amended to recite the

structural relationship between the components. The claims specifically recite the relative position of the components, not just their function.

CONCLUSION

In view of the amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone call would expedite the prosecution of this case, the Examiner is invited to call the undersigned at (508) 879-5700.

Respectfully submitted,

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MARKED UP VERSION OF AMENDMENTS

Claim Amendments Under 37 C.F.R. § 1.121(c)(1)(ii)

1. (Thrice Amended) A surgical device for a coronary bypass procedure comprising:

a retaining element having an aperture defining an operative site;

a connector; and

a holder on the retaining element, the holder positioned to attach[a] the connector to the retaining element, the connector being positioned by the holder to extend [underneath] on a first side of an artery such that the connector compresses and occludes the artery against a surface on the retaining element that is positioned on a second side of the artery at a first arterial position on a first side of the operative site and at a second arterial position on a second side of the operative site.

25. (Thrice Amended) A surgical retractor for a coronary bypass procedure comprising;

a retaining base having an aperture that exposes an operative site, the base including a cord retainer;

a holder on the retaining base; and

a cord that attaches to the holder such that artery tissue can be compressed and occluded between the cord that extends on a first side of the artery and the retaining base that is positioned on a second side of the artery and held stationary relative to the retaining base with the cord and the cord retainer.